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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-197522

*[Entitlement to*

DATE: November 24, 1980

MATTER OF: Captain William M. Wolfe *] Transportation of household goods in advance of orders]*

**DIGEST:** Military member is not entitled to transportation of household goods in advance of orders, since shipment without orders was for personal, not military reason. Military member indicated he was informed that he had 72 hours to clear post and that in 48 hours orders would be issued, but he shipped goods without waiting for orders. Further, orders were not immediately forthcoming because of member's actions delaying separation from active duty until a medical determination could be made in his case.

The issue in this case is whether Captain William M. Wolfe (U.S. Army Retired) is entitled to transportation of his household goods which he shipped without orders authorizing the shipment.

DLG 62237

Mr. J. A. Ware, Acting Assistant Adjutant General, Fort Leonard Wood, Missouri, certified on April 15, 1975, that Captain Wolfe had received notice on November 4, 1974, of his scheduled separation from active duty. According to Mr. Ware, notice was by letter entitled Retention on Active Duty from Headquarters, Department of the Army, dated October 24, 1974. No mention of the date of separation contained in this letter is made in Mr. Ware's statement. On November 4, 1974, Captain Wolfe says that he contacted Post Transportation, Household Goods Section, and explained he had been informed that he was to separate from the service within 72 hours and that his orders would not be prepared for 48 hours. Concerning the lack of separation orders, Mrs. Evelyn Hayes of the Household Goods Section responded that orders must be submitted to the Section. Nevertheless, Captain Wolfe shipped his household goods to his home of record on November 5, 1974, without obtaining orders. He says that Mr. Ware had informed him that when he did obtain orders he would be reimbursed for the shipment.

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However, Captain Wolfe never received orders in accordance with the October 24 notice of separation. Captain Wolfe's attorney secured a Federal court injunction preventing the Army from separating him from the service until a Medical Board had taken action in his

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case. The notice of the release from active duty received on November 4, 1974, was rescinded by a message from Headquarters, Department of the Army, received on November 15, 1974. According to the Army's administrative report, it was not known whether Captain Wolfe would be discharged or retired on disability when he shipped his household goods on November 5, 1974. Captain Wolfe was not separated from active duty until July 1, 1977, when he was placed on the Temporary Disability Retirement List. He was then informed of his entitlement to transportation of household goods, but they had already been shipped on November 5, 1974.

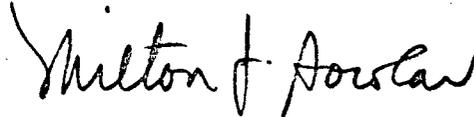
The Army denied Captain Wolfe's claim for transportation of household goods. The administrative report points out that Army Regulation 55-71 provided that major Army commanders, including commanders of unified commands, may approve shipment of household goods prior to issuance of orders in cases of emergency, exigency of the service, or when required by service necessity. Further, para. M8017 of Volume 1, Joint Travel Regulations (1 JTR), ch. 250, December 1, 1973, provided that transportation of household goods was authorized at Government expense prior to issuance of orders if the request for such shipment was supported by a statement from the order-issuing authority, or his designated representative, that the member was advised prior to the issuance of such orders that they would be issued. Under para. M8017, general information furnished to the member concerning the issuance of orders is not considered as advice that the orders would be issued. The administrative report concluded that these requirements were not satisfied in Captain Wolfe's case.

Under the provisions of 37 U.S.C. § 406, a member of the uniformed services is entitled to transportation of his household effects in connection with a permanent change of station under regulations prescribed by the Secretaries concerned. Paragraph M8015 of 1 JTR promulgated pursuant to 37 U.S.C. § 406, provides that transportation of household goods at Government expense is not authorized prior to the issuance of orders, except in cases of emergency, exigency of the Service or when required by Service necessity, as determined by the appropriate authority of the uniformed service concerned. Justification must be based upon a military operation or military need. 52 Comp. Gen. 769 (1973); Lieutenant Commander Leslie P. Crawford, B-183684, April 5, 1976.

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In the present case, the record shows no military need for authorizing shipment of household goods before receipt of orders. Captain Wolfe was correctly advised that orders would be required. He states that he was told that he had 72 hours to clear the Post and that orders would be issued within 48 hours. This is not substantiated by the administrative report. Furthermore, the record contains no explanation of why he could not have waited for orders rather than shipping his household goods before the 48-hour period expired. The orders were evidently not forthcoming because of actions taken by Captain Wolfe or his attorney to delay his separation from active duty until a medical determination could be made in his case. We conclude that the shipment without orders was for personal reasons, and in the absence of some showing of necessity cognizable under the regulation, his claim must be denied.

Consequently, our Claims Division's disallowance of November 19, 1979, is sustained.



For the Comptroller General  
of the United States